

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Riverbank Oil Transfer, LLC
5300 Claus Road
Riverbank, California 96.367

EPA ID No CAL 000 190 816

Respondent

Docket HWCA 01/02-3039

ENFORCEMENT ORDER

Health and Safety Code
Section 251.87

INTRODUCTION

1.1 Parties, The State Department of Toxic
Substances Control (Department) issues this Enforcement Order
(Order) to Riverbank Oil Transfer, LLC (Respondent)

1.2 Site Respondent stores and transfers hazardous
waste at the following site: 5300 Claus Road, Riverbank,
California (Site)

1.3. Permit/Interim Status, , The Department
authorized Respondent to manage hazardous waste by permit issued
on March 13, 2001. (Permit).

1.4 , Jurisdiction, , Section 25187 of the Health and
Safety Code authorizes the Department to order action necessary
to correct violations and assess a penalty when the Department
determines that any person has violated specified provisions of
the Health and Safety Code or any permit, rule, regulation,
standard, or requirement issued or adopted pursuant thereto



1 1.5. Exhibits, , All exhibits attached to this Order
2 are incorporated herein by this reference

3 1.6. Applicable Statutes and Regulations. Copies of
4 the statutes and regulations applicable to this Order are
5 attached as Exhibit 1

6 DETERMINATION OF VIOLATIONS

7 2. The Department has determined that:

8 2.1 The Respondent violated Health and Safety Code
9 section 25202 in that on or about November 7, 2001, Respondent
10 stored hazardous waste in rail cars at locations not authorized
11 by its Permit, Rail car number GATX71447 containing slop oil
12 was parked outside of the facility boundary and rail car number
1.3 RTMX12933 containing used oil was parked at the Train Master
14 Station. Neither location is authorized for hazardous waste
15 storage under the Permit
16

17 2.2 The Respondent violated California Code of
18 Regulations, title 22, section 66264.52 in that, Respondent
19 failed to develop an adequate Contingency Plan.
20

21 2.3 The Respondent violated California Code of
22 Regulations, title 22, section 55264.31, in that on or about
23 November 7, 2001, Respondent failed to maintain and operate its
24 facility to minimize the possibility of any unplanned sudden or
25 non-sudden release of hazardous waste constituents to air or
26 soil which threaten human health or the environment To wit:
27, Respondent mismanaged used oil at the concrete pad of the truck



1 transfer secondary containment area and at the sampling
2 equipment storage area

3 2.4, The Respondent violated California Code of
4 Regulations, title 22, section 66264.13, subsection(b), in that
5 on or about November 7, 2001, Respondent failed to specify
6 documentation and custody procedures for samples analyzed by a
7 contracted laboratory in its approved Waste Analysis Plan,,
8

9 2.5. The Respondent violated California Code of
10 Regulations, title 22, section 66270 30, subsection (a)in that
11 on seven different occasiocs between September 10, 2001 and
12 November 17, 2001 Respondent stored used oil/slop oil in rail
13 cars in excess of its permitted capacity of 24,000 gallons per
14 rail car

15 SCHEDULE FOR COMPLIANCE

16 3. Based on the foregoing Determination of
17 Violations, IT IS HEREBY ORDERED THAT:

18 3.1.1 Effective immediately, Respondent shall cease
19 storing rail cars of used oil/slop oil at any location not
20 authorized under its permit

21 3 1 2 Within 30 days of the effective date of this
22 Order, Respondent shall develop a contingency plan which fully
23 complies with the requirements of California Code of
24 Regulations, title 22, section 66264.52
25

26 3.1.3 Effective immediately, Respondent shall
27 maintain its facility in accordance with requirements of



1 California Code of Regulations, title 22, section 66264.31,
2 subsection (b)

3 3.1.4. Within 30 days from effective date of this
4 Order, Respondent shall revise its Waste Analysis Plan to comply
5 with all requirements of California Code of Regulation, title
6 22, section 66264.13, subsection (b), by including custody
7 procedures and documentation for samples analyzed by a
8 contracted laboratory.
9

10 3.2. Submittals., All submittals from a Respondent
11 pursuant to this Order shall be sent to:

12 Robert Kou, Unit Chief
13 Department of Toxic Substances Control
14 1.01.N. Grandview Ave.
Glendale, California 91201

15 3.3. Communications All approvals and decisions of
16 the Department made regarding submittals and notifications will
17 be communicated to Respondent in writing by the Branch Chief,
18 Department of Toxic Substances Control, *or* his/her designee, No
19 informal advice, guidance, suggestions, *or* comments by the
20 Department regarding reports, plans, specifications, schedules,
21 or any other writings by Respondent shall be construed to
22 relieve Respondent of the obligation to obtain such formal
23 approvals as may be required,,
24

25 3.4. Deuartment Review and Approval. If the
26 Department determines that any report, plan, schedule, *or* other
27 document submitted for approval pursuant to this Order fails to



1 comply with the Order or fails to protect public health or
2 safety or the environment, the Department may:

3 a. Modify the document as deemed necessary and
4 approve the document.as modified, or

5 b. Return the document to Respondent with recommended
6 changes and a date by which Respondent must submit to the
7 Department a revised document incorporating the recommended
8 changes

9
10 3.5, Compliance with Applicable Laws.: Respondent
11 shall carry out this Order in compliance with all local, State,
12 and federal requirements, including but not limited to
13 requirements to obtain permits and to assure worker safety,

14 3.6. Endangerment during Implementation: In the
15 event that the Department determines that any circumstances or
16 activity (whether or not pursued in compliance with this Order)
17 are creating an imminent or substantial endangerment to the
18 health or welfare of people on the site or in the surrounding
19 area or to the environment, the Department may order Respondent
20 to stop further implementation of this Order for such period of
21 time as needed to abate the endangerment. Any deadline in this
22 Order directly affected by a Stop Work Order under this section
23 shall be extended for the term of the Stop Work Order.

24 3.7. Liability: Nothing in this Order shall
25 constitute or be construed as a satisfaction or release from
26 liability for any conditions or claims arising as a result of
27



1 past., current, or future operations of Respondent
2 Notwithstanding compliance with the terms of this Order,
3 Respondent may be required to take further actions as are
4 necessary to protect public health or welfare or the
5 environment.

6 3.8. Site Access: Access to the site shall be
7 provided at all reasonable times to employees, contractors, and
8 consultants of the Department, and any agency having
9 jurisdiction. Nothing in this Order is intended to limit in any
10 way the right of entry or inspection that any agency may
11 otherwise have by operation of any law,, The Department and its
12 authorized representatives shall have the authority to enter and
13 move freely about all property at the Site at all reasonable
14 times for purposes including but not limited to: inspecting
15 records, operating logs, and contracts relating to the Site;
16 reviewing the progress of Respondent, in carrying out the terms
17 of this Order; and conducting such tests as the Department may
18 deem necessary. Respondent shall permit such persons to inspect
19 and copy all records, documents, and other writings, including
20 all sampling and monitoring data, in any way pertaining to work
21 undertaken pursuant to this Order.
22

23 3.9 Data and Document Availability. Respondent
24 shall permit the Department and its authorized representatives
25 to inspect and copy all sampling, testing, monitoring, and other
26 data generated by Respondent or on Respondent's behalf in any
27



1 way pertaining to work undertaken pursuant to this Order
2 Respondent shall allow the Department and its authorized
3 representatives to take duplicates of any samples collected by
4 Respondent pursuant to this Order Respondent shall maintain a
5 central depository of the data, reports, and other documents
6 prepared pursuant to this Order, All such data, reports, and
7 other documents shall be preserved by Respondent for a minimum
8 of six years after the conclusion of all activities under this
9 Order,, If the Department requests that some or all of these
10 documents be preserved for a longer period of time, Respondent
11 shall either comply with that request, deliver the documents to
12 the Department, or permit the Department to copy the documents
13 prior to destruction, Respondent shall notify the Department in
14 writing at least six months prior to destroying any documents
15 prepared pursuant, to this Order
16

17 3.10 Government Liabilities: The State of
18 California shall not be liable for injuries or damages to
19 persons or property resulting from acts or omissions by
20 Respondent or related parties in carrying out activities
21 pursuant to this Order, nor shall the State of California be
22 held as a party to any contract entered into by Respondent or
23 its agents in carrying out activities pursuant to the Order
24

25 3.11. Incorporation of Plans and Reports. All plans,
26 schedules, and reports that require Department approval and are
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1 submitted by Respondent pursuant to this Order are incorporated
2 in this Order upon approval by the Department, .

3 3.12. Extension Request: If Respondent is unable to
4 perform any activity or submit any document within the time
5 required under this Order, the Respondent may, prior to
6 expiration of the time, request an extension of time in writing,
7 The extension request shall include a justification for the
8 delay
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10 3.13. Extension Approvals: If the Department
11 determines that good cause exists for an extension, it will
12 grant the request and specify in writing a new compliance
13 schedule

14 OTHER PROVISIONS

15 4.1. Additional Enforcement Actions: By issuance of
16 this Order, the Department does not waive the right to take
17 further enforcement actions.

18 4.2. Penalties for Noncompliance: Failure to comply
19 with the terms of this Order may also subject Respondent to
20 costs, penalties, and/or punitive damages for any costs incurred
21 by the Department or other government agencies as a result of
22 such failure, as provided by Health and Safety Code section
23 25188 and other applicable provisions of law.
24

25 4.3. Parties Bound: This Order shall apply to and be
26 binding upon Respondent, and its officers, directors, agents,
27 employees, contractors, consultants, receivers, trustees,



1 successors, and assignees, including but not limited to
2 individuals, partners, and subsidiary and parent corporations,
3 4.4. Time Periods, "Days" for purposes of this Order
4 means calendar days

5 PENALTY

6 5. Based on the foregoing DETERMINATION OF
7 VIOLATIONS, the Department sets the amount of Respondent's
8 penalty
9 at \$36,000. Payment is due within 30 days of the effective date
10 of this Order, Respondent's check shall be made payable to the
11 Department of Toxic Substances Control, and shall identify the
12 Respondent and Docket Number, as shown in the heading of this
13 case, Respondent shall deliver the penalty payment to:

15 Department of Toxic Substances Control
16 Accounting Office
17 1001 I Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

18 A photocopy of the check shall be sent to:

19 Robert Kou, Unit Chief
20 Department of Toxic Substances Control
21 1011 N. Grandview Ave.
Glendale, California 91201

22 RIGHT TO A HEARING

23 6 Respondent may request a hearing to challenge the
24 Order., Appeal. procedures are described in the attached
25 Statement to Respondent.

26 EFFECTIVE DATE

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7 This Order is final and effective twenty days from
the date of mailing, which is the date of the cover letter
transmitting the Order to Respondent, unless Respondent requests
a hearing within the twenty-day period,

Date of Issuance June 20, 2002

Original Signed by Robert Kou

Robert Kou
Unit Chief
Department of Toxic Substances Control